

No. 14530 $\frac{1}{2}$

Supreme Court of Illinois

Randell

vs.

~~D~~^orrance

71641  7

STATE OF ILLINOIS,
SUPREME COURT,
Third Grand Division

No. 252

1863

Randall
vs

Insurance

14533

14530. ⁹/₂

Pleas before The Honorable Ira O. Wilkinson
 Judge of the Sixth district of the State of
 Illinois at a Term of the Circuit Court, begun
 and held at the Court House within and for the
 County of Rock Island and State aforesaid on
 the second Monday the thirteenth day of January
 in the year of our Lord One thousand eight
 hundred and sixty two.

Present Honorable Ira O. Wilkinson Judge
 David Hawes Sheriff
 Edward A. Bowman Clerk.

Be it Remembered that on the 30th day of
 December AD 1861, William Raudel by his
 Attorney, E. T. Wells filed in the Office of the Clerk
 of the said Circuit Court in the City of Rock Island
 County and State aforesaid, a precept for a writ
 of Summons in Assumpsit, in the words and
 figures following to wit:

William Raudel	}	Mr. Clerk
"		Please issue summons
Nathaniel Dorrance	}	in this forthwith. Action
as within.		Assumpsit. Other particulars
		Wells.

And thereupon there issued out of the said
 Clerk's Office, City County & State aforesaid
 on the said 30th Dec^r 1861, a writ of Summons
 returnable to the said January 1862, as follows
 to wit:

State of Illinois } ss The People of the State of Illinois
 Rock Island County } To the Sheriff of Rock Island
 County, Greeting.

We command you to summon Nathaniel
Dorrance if to be found in your County, personally
to be and appear before the Circuit Court of said
County of Rock Island on the first day of the
next Term thereof to be holden at the Court House
in Rock Island on the second Monday of January
next, third and third to answer unto William
Randel of a plea of trespass on the case on
promises, to his damage in the sum of Five
hundred Dollars as he says, and have you there
and there this writ and make due return thereon
in what manner you execute the same.

Witness: Edward H Bowman Clerk
of our Circuit Court, and the Seal
thereof affixed at Rock Island this
30th day of December in the year of
our Lord One thousand eight hundred
and sixty one.

Edward H Bowman Clerk.

and on the back of said Writ of Summons is
the following Indorsement, to wit:

"I have served the within writ by reading the
same to the within named Defendant Nathaniel
Dorrance, this 31st day of December AD 1861.

David Havors.

Sheriff of Rock Island County
by C A McLaughlin Dep. Sheriff.

And on the same day the said 30 December AD
1861, there was also filed in the Office of the said
Circuit Clerk, in the City County, and State, by
said Attorney, a Declaration, in the words
and figures following to wit:

3
State of Illinois } ss Of January Term AD 1866
Rock Island County } of the Rock Island Circuit
Court.

William Randall plaintiff in this suit by
E. T. Wells his Attorney complains of Nathaniel
Dorrance, Defendant in this suit of a plea of
trespass on the case upon promises, For that
whereas the said Defendant herebefore to wit: at
the 12th day of August AD 1857 at Port Byron
to wit at Rock Island County aforesaid by his
promissory Note in Writing of that date, for
Value received promised to pay to the Sterling
and Rock Island Rail Road Company, by the
name Style and description of the Sterling and
Rock Island Rail Road Co, or order the sum of
Six hundred dollars, at the expiration of five
years from the first day of September AD 1857,
with Interest thereon at the rate of ten per cent
per annum payable semi Annually in each
year on the first day of March and September
Principal and Interest payable at the Office of
said Company at Sterling in the County of Whiteside
and State of Illinois. And the said Sterling and
Rock Island Rail Road Company afterwards to
wit on the day and year first aforesaid, at &
aforesaid by endorsement in Writing on the back
of said Note, endorsed and Assigned the said Note
to Mess^{rs} Reynolds Wilder & Co. or order. And
the said Reynolds Wilder & Co afterwards, and
on the same day & year first aforesaid at &
aforesaid, also by endorsement in Writing on
the back of said Note, endorsed Assigned and
transferred the said Note to the Plaintiff by the
name Style and description of "Wm Randall"

without Recourse -

By means whereof and by force of the Statute &c the said defendant became liable, and then and there in consideration of the premises respectively promised the Plaintiff to pay him the said Sum of Money in the said Note Specified with interest thereon Semi Annually at the rate and times in the said Note mentioned, and according to the tenor and effect of the said Promissory Note and of the said endorsement thereof. And the said Plaintiff in fact says that afterwards to wit on the first day of December A.D. 1861, a large sum of Money, to wit: Two hundred and forty dollars, for divers, to wit eight of the Semi Annual instalments of interest payable by the terms of said promissory note then last elapsed became and was due from the said Defendant to the Plaintiff, to wit at Rock Island County aforesaid,

2nd

And Whereas also heretofore to wit: on the 12th day of August A.D. 1857 at Port Byron, to wit at the County of Rock Island aforesaid, the said defendant by his certain promissory note of that date for value received promised to pay to the Sterling and Rock Island Rail road Company by the name Style and description of "The Sterling and Rock Island Rail Road Co." or Order Seven hundred dollars at the expiration of Seven years from the first day of September A.D. 1857, with interest thereon at the rate of ten per cent per Annum payable Semi Annually in each year on the first day of March and September, Principal and Interest payable at the Office of said Company at Sterling in the County of

5

of Whiteside and State of Illinois.

And the said Huntington and Rock Island Rail Road Company afterwards to wit on the day and year first aforesaid, at &c aforesaid by its endorsement in writing on the back of said Note, endorsed and assigned the said Note to Messrs Reynolds Wilder & Co or order, and the said Reynolds Wilder & Co afterwards and on the same day and year aforesaid at &c aforesaid by their endorsement in writing on the back of said Note, endorsed and assigned the said Note to the Plaintiff by the name of "Wm Rendall" or his order without recourse. By means whereof and by force of the Statute &c the said defendant became liable, and then and there in consideration of the premises respectively undertook and promised the Plaintiff well and truly to pay him the said sum of money in the said Note specified with interest thereon semi-annually at the rate and times in said promissory Note mentioned, and according to the tenor and effect of the said promissory Note, and the said Plaintiff avers that afterwards to wit on the first day of December A D 1861 a large sum of money, to wit Two hundred and eighty dollars for divers to wit, eight of the semi-annual installments of interest in the said promissory note mentioned, then last elapsed became and was due from the said Defendant to the said Plaintiff to wit at Rock Island County aforesaid.

3^d

And whereas also heretofore to wit, on the first on the first day of December A D 1861, to wit at Rock Island County aforesaid the said defendant became and was indebted to the

15 Said Plaintiff in Five hundred Dollars for interest upon and for the forbearance of divers large sums of money before then due and owing from the said defendant to the said Plaintiff, and by the said Plaintiff forbore to the said defendant for divers long spaces of time, before then elapsed at the said defendant's request; and in five hundred dollars for so much money found to be due the said Plaintiff from the said defendant, on an account then and there stated between them, And being so indebted the said defendant afterwards to wit: on the day and year last aforesaid at &c aforesaid in consideration thereof undertook and promised the plaintiff to pay him the said several moneys in this Court mentioned on Request.

Yet the said defendant although often requested so to do, hath not paid to the plaintiff any nor either of the aforesaid several sums of money, nor any part of the said. And to pay the same or any part thereof hath hitherto wholly neglected and refused, and will do so refuse to the Plaintiff's damage of Five hundred dollars therefore he sues &c.

E T Wells

Copy of notes sued on and the endorsements thereon

"\$600⁰⁰ Part Byprow, Aug 12 1857.
For Value received I promise to pay to the Sterling & Rock Island Rail Road Co or order the sum of six hundred dollars at the expiration of five years from the first day of September A.D. 1857 with interest thereon at the rate of

7 Two per Cent per Annum, payable Semi Annually
in each year on the first day of March - and
September, Principal and Interest payable at
the Office of said Company at Sterling in the
County of Whiteside and State of Illinois.

Nathaniel Dorrance

Endorsed upon the foregoing note is the following

"Pay to Reynolds Wilder & Co or order

S & R I R R W

M S Henry

President"

"Pay to Wm Randall or order without recourse
Reynolds Wilder & Co."

"\$700 Port Byron Aug 12 1857
For value received I promise to pay to the
Sterling & Rock Island Rail Road Co, or order,
the sum of Seven hundred dollars, at the expiration
of seven years from the first day of September
A D 1857 with interest thereon at the rate of
two per Cent per annum, payable Semi Annually
in each year on the first day of March and
September, Principal and Interest payable at
the Office of said Company at Sterling in the
County of Whiteside and State of Illinois

Nathaniel Dorrance"

Endorsed on the foregoing note is the following

"Pay to Reynolds Wilder & Co or order

S & R I R R W

M S Henry

President

"Pay to Wm Randall or order without recourse

Reynolds Wilder & Co."

"Paid on the within One hundred and fifty Dollars"

§ And Be it further Remembered that on the 15th day of January A.D. 1862 the said Defendant by his Attorney J. J. Beardsley^{sr} filed in the Office of the said Circuit Clerk in the City County and State aforesaid, a plea in the words and figures following to wit:

State of Illinois } ss.
Rock Island County } In the Circuit Court
of said County at the
January Term A.D. 1862.

William Raudalo }
vs } And now comes the
Nathaniel Dorrance } said Nathaniel Dorrance
defendant in the above
entitled suit by J. J. Beardsley his Atty, and
denies the wrong & injury whin he and
says he did not assume and promise in
manner and form as said P^lff holds in his
said declaration above thit of Alleged, and of
this he puts himself on the Country for trial by
J. J. Beardsley
his Atty.

And for further plea in this behalf said
Def^t by leave of Court & says Actio non,
because he says that herefore to wit, on
said 12th day of August A.D. 1857, at said
Rock Island County, the said supposed Sterling
and Rock Island Rail Road Company, the
payee named in said several promissory
notes mentioned and described in said Plaintiff's
declaration, assumed and pretended to be a
body Corporate and Politic under the name
and

9

and style aforesaid vested with full power and Authority among other things to build and contract a Rail Road from the town of Sterling in Whiteside County in said State, to the City of Rock Island in the County of Rock Island in said State, and take and receive Subscriptions to the Capital Stock of said Company, wherewith to build and construct said Rail Road: that afterwards to wit on the day and year last aforesaid, at the County aforesaid the said supposed Sterling and Rock Island Rail Road Company by its Agent applied to this defendant and solicited him to subscribe to the Capital Stock of said supposed Company, and at the same time in order to induce this defendant to do so assured this defendant, that said supposed Company would speedily construct said Road. And that if said supposed Company did not do so, this defendant would not be called upon or compelled to pay the amount he might so subscribe to the Capital Stock of said supposed Company, wherupon it was then and there agreed by and between this defendant, and said supposed Company so as aforesaid represented and acting by its said Agent that this defendant should subscribe for the amount of Eleven hundred dollars of the Capital Stock of said supposed Rail Road Company, and make out and sign two several notes of hand of the date ten & twenty respectively as described in said Pils declaration, and that said two notes when signed by this defendant should be placed in the hands of one Nathaniel Belcher, to be held by him, and not delivered to said supposed Company until then

had been Two hundred thousand dollars subscribed in good faith to the Capital Stock of said supposed Company: And said Deft avers that in pursuance of the agreement aforesaid he did make & sign said two promissory Notes counted upon in said plaintiffs declaration, and that he then and there deposited the same with said Nathaniel Belcher, the said Agent of said supposed Company, and this defendant then and there and together informing said Belcher of the conditions aforesaid upon which said Notes were deposited with him, and said Deft further avers that there was not at the date of said promissory Notes to wit on said 12th day of Aug. AD 1857, nor has there been at any time since a bona fide subscription of Two hundred thousand dollars to the Capital Stock of said supposed Rail Road Company, And this the said defendant is ready to verify, whereupon he prays judgment

By J. J. Beardsley his Atty.

And Be it further remembered that on the said 15th day of January AD 1863, Before the Judge aforesaid, and at the place aforesaid, & being the third day of the January Term 1862 the following proceeding was had.

William Ruedell of Assumpsit
 vs
 Nathaniel Dorrance & parties Plaintiff and
 defendant, by their
 respective Attorneys, and by their agreement
 It is ordered by the Court, that the defendant

11 may file additional pleas in sixty days.

And afterwards to wit on the 14th day of March 1862 in pursuance of said last mentioned Order the following Additional pleas were filed in the said Circuit Clerk's Office, City County, State aforesaid

" And for further plea in this behalf said defendant by leave of Court for that purpose first had and obtained, as to first two Counts in Plaintiff's said declaration contained says Actio non. because he says that the said several supposed promissory Notes severally described in the first and second Counts of said Plaintiff's declaration are by their terms and tenor respectively, made payable to a supposed person not then in being at the date and making and supposed delivery thereof to wit on the 12th day of August AD 1857, to wit at the County aforesaid, and this the said defendant is ready to verify, whereupon he prays Judgment &c by
Reundsley his atty.

And for further plea in this behalf said defendant by leave of Court &c as to the first and second Counts in Plaintiff's said declaration contained, says, Actio non, because he says that was not at the date and making, and supposed delivery of said several supposed promissory Notes, respectively mentioned and described in the first and second Counts of Plaintiff's said declaration to wit on the 12th day of August AD 1857 to wit at said County of Rock Island, any such Corporation as the Sterling and Rock Island

Rail Road Company to whom or order, said several supposed promissory notes were made payable, and that the said defendant is ready to verify, whereupon he prays judgment to be
 Rendered by his Atty.

And for further plea in this behalf said defendant by leave of Court be as to the first and second Counts of said Plaintiffs declaration says actio non, because he says at the date and making, and supposed delivery, and supposed endorsement of said several supposed promissory notes respectively described in said first and second Counts of Pltfs declaration there was not any such Corporation as the said supposed Sterling and Rock Island Rail Road Company, to whom or order said several supposed promissory notes were respectively made payable to wit on said 12th day of Aug. A.D. 1854 to wit at the County aforesaid, and that the said defendant is ready to verify, whereupon he prays judgment to be
 Rendered by his Atty.

And Be it further Remembered that on the 13th of May 1862. a demurrer to said Pleas was filed in the Office of the said Circuit Clerk in the City County & State aforesaid as follows, to wit.

State of Illinois) ss. Of May Term A.D. 1862
 Rock Island County) of the Rock Island Circuit
 Court.

William Randall)
 Nathaniel Dorrance)

And the said Plaintiff
 as

as to the plea of the said defendant by him first above pleaded, and whereof the said Defendant doth put himself upon the Country doth the like.

And as to the pleas of the said defendant by him second Plead fourth and fifthly above pleaded the said Plaintiff saith that the same are not nor is either three of sufficient in law.

And this said Plaintiff is ready to verify, wherefore he prays judgment.

E J Wells

And Be it further Remembered that on the 29th day of May A.D. 1862. (being the fifteenth sitting day of the May Term 1862.) the following proceeding was had before the Judge aforesaid sitting as aforesaid, and at the place aforesaid.

William Randel	} Assumpsit
Nathaniel Dorrance	

This day came the Plaintiff by his Attorney, and having filed demurrer to special pleas filed by Def^t, and on hearing same argued on behalf of Pl^t + Def^t. It is ordered by the Court that said demurrer be sustained, and Defendant abide by said pleas, and issue being joined on first plea, and by agreement this cause is submitted to the Court for trial without jury, and the Court being fully informed found the issue for Plaintiff, and assessed the damages at Two hundred and forty dollars. And thereupon Defendant by his Attorney, enters a motion for a New trial, and in arrest of judgment.

And Be it further Remembered that on the 19th day of September 1862 (being the tenth sitting day of the September Term 1862) the following proceeding was had before the Judge aforesaid, sitting as aforesaid & at the place aforesaid

William Randall } Assumpsit
 vs }
 Nathaniel Dorrance } Parties Plff & Def by
 their respective Attorneys
 and the motion of defendant at last term for a new trial overruled by the Court. And It is ordered by the Court that the Plff have and recover judgment on the finding of the Court and against said defendant for Two hundred and forty dollars damages & Costs, And thereupon the Defendant moves for leave to appeal which the Court allowed on filing Appeal Bond in sixty days for \$400 Security to be approved of by the Clerk of this Court by agreement.

And lastly Be it Remembered that on the 17th November A.D. 1862 an Appeal Bond was filed in the Office of the said Circuit Clerk in the City County & State aforesaid, and which is as follows. 412

Know all men by these presents, that we Nathaniel Dorrance as principal and Jesse Maxwell as Security are held and firmly bound unto William Randall in the penal of Two hundred dollars good and lawful money of the United States for the payment of which well and truly to be made, the

15

Madwell

said Donance and ^{Madwell} bind themselves their heirs exec-
utors and administrators jointly and severally and firmly
by their hands

Witness their hands and seals hereunto affixed this seven-
teenth day of November A.D. 1862.

The condition of the above
obligation is such that whereas the above ~~named~~ ^{Madwell}
Russell did at the September Term of the Circuit Court held
in and for the County of Rock Island, in the State of Illinois
A.D. 1862, render a judgement against the above named
Nathaniel Donance for the sum of two hundred & forty dollars
as well for his costs in that behalf expended to reverse which
said judgement the said Nathaniel Donance has presented
a Bill of Exceptions to the said Circuit Court and has sued
out a writ of Error from the Supreme Court within and for
the Third Grand Division of the State of Illinois, which writ
of Error is made a Superedeas. Now if the said Nathaniel
Donance shall prosecute duly said writ Error and pay
or cause to be paid the amount said judgement and all
judgements, costs interest and damages which the said
Supreme Court shall adjudge against him in case the
judgement of the said Circuit Court shall be affirmed and
while the order and judgement of said Supreme Court in
this behalf - then this obligation is to be void, otherwise to remain
in full force and effect.

Approved of
17 November 1862.
E. H. Brownson CLK

Nathaniel Donance
Jesse Madwell

seal
seal
seal

State of Illinois } ss

Rock Island County } 25

J. Edward H. Bowman

Clerk of the Circuit Court

within and for said County & State aforesaid,
 hereby certify that the foregoing is a true full
 and complete transcript of the Record of Proceedings
 had in said Cause, as also a full complete
 and true copy of the several Original papers
 on file therein, as entire as the same now
 remain of Record, or on file in my Office.

In testimony whereof I have
 hereunto set my hand & Affixed
 the Seal of said Circuit Court at
 Rock Island this 21st day of April
 A.D. 1863.

Edward H. Bowman

Clerk

State of Illinois } In the Supr Court in &
 Han & Grand Div. } 25 for said Division at
 the Apt. Term March A.D. 1863 -

And now comes the said
 Frank Duran Appellant in the
 foregoing mentioned suit by J. J.
 Burdick his atty and says that
 manifest error both intervenes in
 the trial judgt & proceedings therein
 in this Court -

1. The Court below erred in sus=
 taining the demand of said Wm. R. R.
^{Apply} to the plea of Apt to which the
 same was sought to be applied

- 2 The demurrer should have been allowed back to save applicant's ~~substantive~~
- 3 The said demurrer should have been allowed as to ~~part~~ plea
- 4 The court should have granted the applicant a new trial
- 5 The court should have entered judgment for applicant in each case

L. L. Reardon
atty for Vapt

William Wendell
Clerk
Nathaniel Dorrance

Transcript &
Errors -

Filed April 28. 1863
Leland
Clerk

Vertical handwritten notes on the left margin, including numbers 1 through 10.

tion that they were not to be delivered until the sum of two hundred thousand dollars was in good faith subscribed to the capital stock of said company; that said sum was never so subscribed, &c.

- 11 Defendant takes leave to file additional pleas, which in due time were filed, and are substantially as follows:

1st. That said notes, by their terms and tenor, were respectively made payable to a supposed person, not in being at the date and supposed delivery thereof, to-wit, &c.

2d. That there was not, at the date and making and supposed delivery of said notes, to-wit, &c., any such corporation as the Sterling & Rock Island Railroad Company, to whom or order said notes were made payable.

- 12 3d. This plea is like the last above mentioned, with the addition that it alleges that, at the time of the endorsement of said notes by said supposed Company, there was no such corporation in existence, &c.

- 13 May Term, 1862, plaintiff filed his demurrer to all the special pleas interposed by defendant.

May 29th, 1862, Court sustained plaintiff's demurrer to defendant's special plea. Defendant's first plea (general issue), the Court overruled, and assessed costs at \$240.

- 14 Defendant's motion for new trial.
Sept. Term, 1862, defendant's motion for new trial overruled.
Judgment for plaintiff.
Defendant prays for an appeal to Supreme Court. Granted.
- 15 Bond for appeal filed agreeably to order of Court.
- 15 Certificate of Clerk to Record.

ERRORS ASSIGNED.

1. The Court below erred in sustaining demurrer of appellee to the pleas of appellant, to which the same was sought to be applied.
2. The demurrer should have been carried back to appellees' declaration.
3. The said demurrer should have been overruled as to appellant's pleas.
4. The Court should have granted appellant a new trial.
5. The Court should have rendered judgment for appellant.

J. J. BEARDSLEY,
Attorney for Appellant.

252
N. Drake

W. R. R. R.

Abstracts

April Term 1864

Deland

Abstract in

Donner

in

Randall

to be placed on file for

SUPREME COURT OF ILLINOIS,

THIRD GRAND DIVISION.

APRIL TERM THEREOF, A. D. 1863.

NATHANIEL DORRANCE,
Appellant, } *Appeal from Rock Island.*
vs. }
WILLIAM RANDALL, *Appellee.* }

2 Summons to defendant.

3-6 Service in due form.

Plaintiff's declaration in assumpsit. Two special counts, with general counts, to the January term, 1861. The special counts declare upon the following promissory note :

7 "\$600. PORT BYRON, Aug. 12, 1857.

"For value received, I promise to pay to the Sterling and Rock Island Railroad Co. or order, the sum of six hundred dollars, at the expiration of five years from the first day of September, A. D. 1857, with interest thereon at the rate of ten per cent. per annum, payable semi-annually in each year, on the first day of March and September. Principal and interest payable at the office of said Company at Sterling, in the county of Whiteside, and State of Illinois.

"NATHANIEL DORRANCE."

Endorsed upon said note is the following :

"Pay to Reynolds, Wilder & Co. or order.

S. & R. I. R. R., per

M. S. HENRY, President."

"Pay to William Randall or order, without recourse."

"REYNOLDS, WILER & Co."

The second note counted upon, is of like tenor, except that it is for \$700, and payable in seven years, with the same endorsements on the back.

8 Jan. 15, 1862, of same term, defendant pleads the general issue, and
10 one special plea. Said plea alleges that said notes were made and placed in the hands of an agent of said S. & R. I. R. R. Co. upon the condi-

tion that they were not to be delivered until the sum of two hundred thousand dollars was in good faith subscribed to the capital stock of said company; that said sum was never so subscribed, &c.

11 Defendant takes leave to file additional pleas, which in due time were filed, and are substantially as follows :

1st. That said notes, by their terms and tenor, were respectively made payable to a supposed person, not in being at the date and supposed delivery thereof, to-wit, &c.

2d. That there was not, at the date and making and supposed delivery of said notes, to-wit. &c., any such corporation as the Sterling & Rock Island Railroad Company, to whom or order said notes were made payable.

12 3d. This plea is like the last above mentioned, with the addition that it alleges that, at the time of the endorsement of said notes by said supposed Company, there was no such corporation in existence, &c.

13 May Term, 1862, plaintiff filed his demurrer to all the special pleas interposed by defendant.

May 29th, 1862, Court sustains plaintiff's demurrer to defendant's special plea. Issue being joined on defendant's first plea (gen. issue), the Court by consent tries the same, and assess plaintiff's damages at \$240.

Defendant enters his motion for new trial.

14 Sept. Term, 1862, defendant's motion for new trial overruled.

Judgment for plaintiff.

Defendant prays for an appeal to Supreme Court. Granted.

15 Bond for appeal filed agreeably to order of Court.

15 Certificate of Clerk to Record.

ERRORS ASSIGNED.

1. The Court below erred in sustaining demurrer of appellee to the pleas of appellant, to which the same was sought to be applied.

2. The demurrer should have been carried back to appellees' declaration.

3. The said demurrer should have been overruled as to appellant's pleas.

4. The Court should have granted appellant a new trial.

5. The Court should have rendered judgment for appellant.

J. J. BEARDSLEY,
Attorney for Appellant.

SUPREME COURT OF ILLINOIS,

THIRD GRAND DIVISION.

APRIL TERM THEREOF, A. D. 1863.

NATHANIEL DORRANCE,
Appellant, } *Appeal from Rock Island.*
vs. }
WILLIAM RANDALL, *Appellee.* }

2 Summons to defendant.

3-6 Service in due form.

Plaintiff's declaration in assumpsit. Two special counts, with general counts, to the January term, 1861. The special counts declare upon the following promissory note :

7 "\$600. PORT BYRON, Aug. 12, 1857.
" For value received, I promise to pay to the Sterling and Rock Island
" Railroad Co. or order, the sum of six hundred dollars, at the expiration
" of five years from the first day of September, A. D. 1857, with interest
" thereon at the rate of ten per cent. per annum, payable semi-annually
" in each year, on the first day of March and September. Principal and
" interest payable at the office of said Company at Sterling, in the county
" of Whiteside, and State of Illinois.

"NATHANIEL DORRANCE."

Endorsed upon said note is the following :

" Pay to Reynolds, Wilder & Co. or order.

S. & R. I. R. R., per

M. S. HENRY, President."

" Pay to William Randall or order, without recourse."

"REYNOLDS, WILER & Co."

The second note counted upon, is of like tenor, except that it is for \$700, and payable in seven years, with the same endorsements on the back.

8 Jan. 15, 1862, of same term, defendant pleads the general issue, and
10 one special plea. Said plea alleges that said notes were made and placed
in the hands of an agent of said S. & R. I. R. R. Co. upon the condi-

tion that they were not to be delivered until the sum of two hundred thousand dollars was in good faith subscribed to the capital stock of said company; that said sum was never so subscribed, &c.

11 Defendant takes leave to file additional pleas, which in due time were filed, and are substantially as follows:

1st. That said notes, by their terms and tenor, were respectively made payable to a supposed person, not in being at the date and supposed delivery thereof, to-wit, &c.

2d. That there was not, at the date and making and supposed delivery of said notes, to-wit, &c., any such corporation as the Sterling & Rock Island Railroad Company, to whom or order said notes were made payable.

12 3d. This plea is like the last above mentioned, with the addition that it alleges that, at the time of the endorsement of said notes by said supposed Company, there was no such corporation in existence, &c.

13 May Term, 1862, plaintiff filed his demurrer to all the special pleas interposed by defendant.

May 29th, 1862, Court sustains plaintiff's demurrer to defendant's special plea. Issue being joined on defendant's first plea (gen. issue), the Court by consent tries the same, and assess plaintiff's damages at \$240.

Defendant enters his motion for new trial.

14 Sept. Term, 1862, defendant's motion for new trial overruled.

Judgment for plaintiff.

Defendant prays for an appeal to Supreme Court. Granted.

15 Bond for appeal filed agreeably to order of Court.

15 Certificate of Clerk to Record.

ERRORS ASSIGNED.

1. The Court below erred in sustaining demurrer of appellee to the pleas of appellant, to which the same was sought to be applied.

2. The demurrer should have been carried back to appellees' declaration.

3. The said demurrer should have been overruled as to appellant's pleas.

4. The Court should have granted appellant a new trial.

5. The Court should have rendered judgment for appellant.

J. J. BEARDSLEY,
Attorney for Appellant.

tion that they were not to be delivered until the sum of two hundred thousand dollars was in good faith subscribed to the capital stock of said company; that said sum was never so subscribed, &c.

- 11 Defendant takes leave to file additional pleas, which in due time were filed, and are substantially as follows :
- 1st. That said notes, by their terms and tenor, were respectively made payable to a supposed person, not in being at the date and supposed delivery thereof, to-wit, &c.
- 2d. That there was not, at the date and making and supposed delivery of said notes, to-wit. &c., any such corporation as the Sterling & Rock Island Railroad Company, to whom or order said notes were made payable.
- 12 3d. This plea is like the last above mentioned, with the addition that it alleges that, at the time of the endorsement of said notes by said supposed Company, there was no such corporation in existence, &c.
- 13 May Term, 1862, plaintiff filed his demurrer to all the special pleas interposed by defendant.
- May 29th, 1862, Court sustains plaintiff's demurrer to defendant's special plea. Issue being joined on defendant's first plea (gen. issue), the Court by consent tries the same, and assess plaintiff's damages at \$240.
- Defendant enters his motion for new trial.
- 14 Sept. Term, 1862, defendant's motion for new trial overruled.
- Judgment for plaintiff.
- Defendant prays for an appeal to Supreme Court. Granted.
- 15 Bond for appeal filed agreeably to order of Court.
- 15 Certificate of Clerk to Record.

ERRORS ASSIGNED.

1. The Court below erred in sustaining demurrer of appellee to the pleas of appellant, to which the same was sought to be applied.
2. The demurrer should have been carried back to appellees' declaration.
3. The said demurrer should have been overruled as to appellant's pleas.
4. The Court should have granted appellant a new trial.
5. The Court should have rendered judgment for appellant.

J. J. BEARDSLEY,
Attorney for Appellant.

tion that they were not to be delivered until the sum of two hundred thousand dollars was in good faith subscribed to the capital stock of said company; that said sum was never so subscribed, &c.

11 Defendant takes leave to file additional pleas, which in due time were filed, and are substantially as follows:

1st. That said notes, by their terms and tenor, were respectively made payable to a supposed person, not in being at the date and supposed delivery thereof, to-wit, &c.

2d. That there was not, at the date and making and supposed delivery of said notes, to-wit. &c., any such corporation as the Sterling & Rock Island Railroad Company, to whom or order said notes were made payable.

12 3d. This plea is like the last above mentioned, with the addition that it alleges that, at the time of the endorsement of said notes by said supposed Company, there was no such corporation in existence, &c.

13 May Term, 1862, plaintiff filed his demurrer to all the special pleas interposed by defendant.

May 29th, 1862, Court sustains plaintiff's demurrer to defendant's special plea. Issue being joined on defendant's first plea (gen. issue), the Court by consent tries the same, and assess plaintiff's damages at \$240.

Defendant enters his motion for new trial.

14 Sept. Term, 1862, defendant's motion for new trial overruled.

Judgment for plaintiff.

Defendant prays for an appeal to Supreme Court. Granted.

15 Bond for appeal filed agreeably to order of Court.

15 Certificate of Clerk to Record.

ERRORS ASSIGNED.

1. The Court below erred in sustaining demurrer of appellee to the pleas of appellant, to which the same was sought to be applied.

2. The demurrer should have been carried back to appellees' declaration.

3. The said demurrer should have been overruled as to appellant's pleas.

4. The Court should have granted appellant a new trial.

5. The Court should have rendered judgment for appellant.

J. J. BEARDSLEY,
Attorney for Appellant.

tion that they were not to be delivered until the sum of two hundred thousand dollars was in good faith subscribed to the capital stock of said company; that said sum was never so subscribed, &c.

11 Defendant takes leave to file additional pleas, which in due time were filed, and are substantially as follows:

1st. That said notes, by their terms and tenor, were respectively made payable to a supposed person, not in being at the date and supposed delivery thereof, to-wit, &c.

2d. That there was not, at the date and making and supposed delivery of said notes, to-wit, &c., any such corporation as the Sterling & Rock Island Railroad Company, to whom or order said notes were made payable.

12 3d. This plea is like the last above mentioned, with the addition that it alleges that, at the time of the endorsement of said notes by said supposed Company, there was no such corporation in existence, &c.

13 May Term, 1862, plaintiff filed his demurrer to all the special pleas interposed by defendant.

May 29th, 1862, Court sustains plaintiff's demurrer to defendant's special plea. Issue being joined on defendant's first plea (gen. issue), the Court by consent tries the same, and assess plaintiff's damages at \$240.

Defendant enters his motion for new trial.

14 Sept. Term, 1862, defendant's motion for new trial overruled.

Judgment for plaintiff.

Defendant prays for an appeal to Supreme Court. Granted.

15 Bond for appeal filed agreeably to order of Court.

15 Certificate of Clerk to Record.

ERRORS ASSIGNED.

1. The Court below erred in sustaining demurrer of appellee to the pleas of appellant, to which the same was sought to be applied.

2. The demurrer should have been carried back to appellees' declaration.

3. The said demurrer should have been overruled as to appellant's pleas.

4. The Court should have granted appellant a new trial.

5. The Court should have rendered judgment for appellant.

J. J. BEARDSLEY,
Attorney for Appellant.

SUPREME COURT OF ILLINOIS,

THIRD GRAND DIVISION.

APRIL TERM THEREOF, A. D. 1863.

NATHANIEL DORRANCE,
Appellant, } *Appeal from Rock Island.*
vs. }
WILLIAM RANDALL, *Appellee.* }

- 2 Summons to defendant.
- 3-6 Service in due form.
- Plaintiff's declaration in assumpsit. Two special counts, with general counts, to the January term, 1861. The special counts declare upon the following promissory note :

7 "\$600. PORT BYRON, Aug. 12, 1857.
" For value received, I promise to pay to the Sterling and Rock Island
" Railroad Co. or order, the sum of six hundred dollars, at the expiration
" of five years from the first day of September, A. D. 1857, with interest
" thereon at the rate of ten per cent. per annum, payable semi-annually
" in each year, on the first day of March and September. Principal and
" interest payable at the office of said Company at Sterling, in the county
" of Whiteside, and State of Illinois.
"NATHANIEL DORRANCE."

Endorsed upon said note is the following :

" Pay to Reynolds, Wilder & Co. or order.
S. & R. I. R. R., per
M. S. HENRY, President."
" Pay to William Randall or order, without recourse."
"REYNOLDS, WILER & Co."

The second note counted upon, is of like tenor, except that it is for \$700, and payable in seven years, with the same endorsements on the back.

- 8 Jan. 15, 1862, of same term, defendant pleads the general issue, and
10 one special plea. Said plea alleges that said notes were made and placed
in the hands of an agent of said S. & R. I. R. R. Co. upon the condi-

tion that they were not to be delivered until the sum of two hundred thousand dollars was in good faith subscribed to the capital stock of said company; that said sum was never so subscribed, &c.

11 Defendant takes leave to file additional pleas, which in due time were filed, and are substantially as follows:

1st. That said notes, by their terms and tenor, were respectively made payable to a supposed person, not in being at the date and supposed delivery thereof, to-wit, &c.

2d. That there was not, at the date and making and supposed delivery of said notes, to-wit, &c., any such corporation as the Sterling & Rock Island Railroad Company, to whom or order said notes were made payable.

12 3d. This plea is like the last above mentioned, with the addition that it alleges that, at the time of the endorsement of said notes by said supposed Company, there was no such corporation in existence, &c.

13 May Term, 1862, plaintiff filed his demurrer to all the special pleas interposed by defendant.

May 29th, 1862, Court sustains plaintiff's demurrer to defendant's special plea. Issue being joined on defendant's first plea (gen. issue), the Court by consent tries the same, and assess plaintiff's damages at \$240.

Defendant enters his motion for new trial.

14 Sept. Term, 1862, defendant's motion for new trial overruled.

Judgment for plaintiff.

Defendant prays for an appeal to Supreme Court. Granted.

15 Bond for appeal filed agreeably to order of Court.

15 Certificate of Clerk to Record.

ERRORS ASSIGNED.

1. The Court below erred in sustaining demurrer of appellee to the pleas of appellant, to which the same was sought to be applied.

2. The demurrer should have been carried back to appellees' declaration.

3. The said demurrer should have been overruled as to appellant's pleas.

4. The Court should have granted appellant a new trial.

5. The Court should have rendered judgment for appellant.

J. J. BEARDSLEY,
Attorney for Appellant.

tion that they were not to be delivered until the sum of two hundred thousand dollars was in good faith subscribed to the capital stock of said company; that said sum was never so subscribed, &c.

11 Defendant takes leave to file additional pleas, which in due time were filed, and are substantially as follows:

1st. That said notes, by their terms and tenor, were respectively made payable to a supposed person, not in being at the date and supposed delivery thereof, to-wit, &c.

2d. That there was not, at the date and making and supposed delivery of said notes, to-wit, &c., any such corporation as the Sterling & Rock Island Railroad Company, to whom or order said notes were made payable.

12 3d. This plea is like the last above mentioned, with the addition that it alleges that, at the time of the endorsement of said notes by said supposed Company, there was no such corporation in existence, &c.

13 May Term, 1862, plaintiff filed his demurrer to all the special pleas interposed by defendant.

May 29th, 1862, Court sustains plaintiff's demurrer to defendant's special plea. Issue being joined on defendant's first plea (gen. issue), the Court by consent tries the same, and assess plaintiff's damages at \$240.

Defendant enters his motion for new trial.

14 Sept. Term, 1862, defendant's motion for new trial overruled.

Judgment for plaintiff.

Defendant prays for an appeal to Supreme Court. Granted.

15 Bond for appeal filed agreeably to order of Court.

15 Certificate of Clerk to Record.

ERRORS ASSIGNED.

1. The Court below erred in sustaining demurrer of appellee to the pleas of appellant, to which the same was sought to be applied.

2. The demurrer should have been carried back to appellees' declaration.

3. The said demurrer should have been overruled as to appellant's pleas.

4. The Court should have granted appellant a new trial.

5. The Court should have rendered judgment for appellant.

J. J. BEARDSLEY,
Attorney for Appellant.

SUPREME COURT OF ILLINOIS,

THIRD GRAND DIVISION.

APRIL TERM THEREOF, A. D. 1863.

NATHANIEL DORRANCE, }
Appellant, } Appeal from Rock Island.
vs. }
WILLIAM RANDALL, Appellee. }

2 Summons to defendant.

3-6 Service in due form.

Plaintiff's declaration in assumpsit. Two special counts, with general counts, to the January term, 1861. The special counts declare upon the following promissory note :

7 "\$600. PORT BYRON, Aug. 12, 1857.

"For value received, I promise to pay to the Sterling and Rock Island Railroad Co. or order, the sum of six hundred dollars, at the expiration of five years from the first day of September, A. D. 1857, with interest thereon at the rate of ten per cent. per annum, payable semi-annually in each year, on the first day of March and September. Principal and interest payable at the office of said Company at Sterling, in the county of Whiteside, and State of Illinois.

"NATHANIEL DORRANCE."

Endorsed upon said note is the following :

"Pay to Reynolds, Wilder & Co. or order.

S. & R. I. R. R., per

M. S. HENRY, President."

"Pay to William Randall or order, without recourse."

"REYNOLDS, WILER & Co."

The second note counted upon, is of like tenor, except that it is for \$700, and payable in seven years, with the same endorsements on the back.

8 Jan. 15, 1862, of same term, defendant pleads the general issue, and
10 one special plea. Said plea alleges that said notes were made and placed in the hands of an agent of said S. & R. I. R. R. Co. upon the condi-

tion that they were not to be delivered until the sum of two hundred thousand dollars was in good faith subscribed to the capital stock of said company : that said sum was never so subscribed, &c.

11 Defendant takes leave to file additional pleas, which in due time were filed, and are substantially as follows :

1st. That said notes, by their terms and tenor, were respectively made payable to a supposed person, not in being at the date and supposed delivery thereof, to-wit, &c.

2d. That there was not, at the date and making and supposed delivery of said notes, to-wit. &c., any such corporation as the Sterling & Rock Island Railroad Company, to whom or order said notes were made payable.

12 3d. This plea is like the last above mentioned, with the addition that it alleges that, at the time of the endorsement of said notes by said supposed Company, there was no such corporation in existence, &c.

13 May Term, 1862, plaintiff filed his demurrer to all the special pleas interposed by defendant.

May 29th, 1862, Court sustains plaintiff's demurrer to defendant's special plea. Issue being joined on defendant's first plea (gen. issue), the Court by consent tries the same, and assess plaintiff's damages at \$240.

Defendant enters his motion for new trial.

14 Sept. Term, 1862, defendant's motion for new trial overruled.

Judgment for plaintiff.

Defendant prays for an appeal to Supreme Court. Granted.

15 Bond for appeal filed agreeably to order of Court.

15 Certificate of Clerk to Record.

ERRORS ASSIGNED.

1. The Court below erred in sustaining demurrer of appellee to the pleas of appellant, to which the same was sought to be applied.

2. The demurrer should have been carried back to appellees' declaration.

3. The said demurrer should have been overruled as to appellant's pleas.

4. The Court should have granted appellant a new trial.

5. The Court should have rendered judgment for appellant.

J. J. BEARDSLEY,
Attorney for Appellant.

tion that they were not to be delivered until the sum of two hundred thousand dollars was in good faith subscribed to the capital stock of said company; that said sum was never so subscribed, &c.

11 Defendant takes leave to file additional pleas, which in due time were filed, and are substantially as follows:

1st. That said notes, by their terms and tenor, were respectively made payable to a supposed person, not in being at the date and supposed delivery thereof, to-wit, &c.

2d. That there was not, at the date and making and supposed delivery of said notes, to-wit, &c., any such corporation as the Sterling & Rock Island Railroad Company, to whom or order said notes were made payable.

12 3d. This plea is like the last above mentioned, with the addition that it alleges that, at the time of the endorsement of said notes by said supposed Company, there was no such corporation in existence, &c.

13 May Term, 1862, plaintiff filed his demurrer to all the special pleas interposed by defendant.

May 29th, 1862, Court sustains plaintiff's demurrer to defendant's special plea. Issue being joined on defendant's first plea (gen. issue), the Court by consent tries the same, and assess plaintiff's damages at \$240.

Defendant enters his motion for new trial.

14 Sept. Term, 1862, defendant's motion for new trial overruled.

Judgment for plaintiff.

Defendant prays for an appeal to Supreme Court. Granted.

15 Bond for appeal filed agreeably to order of Court.

15 Certificate of Clerk to Record.

ERRORS ASSIGNED.

1. The Court below erred in sustaining demurrer of appellee to the pleas of appellant, to which the same was sought to be applied.

2. The demurrer should have been carried back to appellees' declaration.

3. The said demurrer should have been overruled as to appellant's pleas.

4. The Court should have granted appellant a new trial.

5. The Court should have rendered judgment for appellant.

J. J. BEARDSLEY,
Attorney for Appellant.

tion that they were not to be delivered until the sum of two hundred thousand dollars was in good faith subscribed to the capital stock of said company, ~~that said sum was never~~ subscribed, &c.

11 Defendant takes leave to file additional pleas, which in due time were filed, and are substantially as follows :

1st. That said notes, by their terms and tenor, were respectively made payable to a supposed person, not in being at the date and supposed delivery thereof, to-wit, &c.

2d. That there was not, at the date and making and supposed delivery of said notes, to-wit. &c., any such corporation as the Sterling & Rock Island Railroad Company, to whom or order said notes were made payable.

12 3d. This plea is like the last above mentioned, with the addition that it alleges that, at the time of the endorsement of said notes by said supposed Company, there was no such corporation in existence, &c.

13 May Term, 1862, plaintiff filed his demurrer to all the special pleas interposed by defendant.

May 29th, 1862, Court sustains plaintiff's demurrer to defendant's special plea. Issue being joined on defendant's first plea (gen. issue), the Court by consent tries the same, and assess plaintiff's damages at \$240.

Defendant enters his motion for new trial.

14 Sept. Term, 1862, defendant's motion for new trial overruled.

Judgment for plaintiff.

Defendant prays for an appeal to Supreme Court. Granted.

15 Bond for appeal filed agreeably to order of Court.

15 Certificate of Clerk to Record.

ERRORS ASSIGNED.

1. The Court below erred in sustaining demurrer of appellee to the pleas of appellant, to which the same was sought to be applied.
2. The demurrer should have been carried back to appellees' declaration.
3. The said demurrer should have been overruled as to appellant's pleas.
4. The Court should have granted appellant a new trial.
5. The Court should have rendered judgment for appellant.

J. J. BEARDSLEY,
Attorney for Appellant.

252

THEIR VIEWS

- 11. [Faint text]
- 12. [Faint text]
- 13. [Faint text]
- 14. [Faint text]
- 15. [Faint text]

11. [Faint text]

12. [Faint text]

13. [Faint text]

14. [Faint text]

15. [Faint text]

16. [Faint text]

17. [Faint text]

18. [Faint text]

19. [Faint text]

20. [Faint text]

21. [Faint text]

22. [Faint text]

23. [Faint text]

24. [Faint text]

25. [Faint text]

26. [Faint text]

27. [Faint text]

28. [Faint text]

29. [Faint text]

30. [Faint text]

31. [Faint text]

32. [Faint text]

33. [Faint text]

34. [Faint text]

35. [Faint text]